

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation
Case No. CV96-4849

Certified Award

to Claimant [REDACTED],
acting on behalf of himself and of [REDACTED], [REDACTED], and [REDACTED]

in re Account of Efim and Chaja Griliches

Claim Numbers: 209936/EC; 209939/EC

Award Amount: 149,500.00 Swiss Francs

This Certified Award is based upon the claims of [REDACTED] (the "Claimant"), acting on behalf of himself and of his sister, [REDACTED], and his cousins, [REDACTED] and [REDACTED], to the Account of Efim and Chaja Griliches (the "Account Owners").

All awards are published, but where the claimant has requested confidentiality, as in this case, the names of the claimant, the account owners, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted two claim forms, one relating to each of the Account Owners, stating that the Account Owners were his grandparents, Efim (Jefimas) Ilyich Griliches and Chaja (Clara) Griliches, née Ziv, who were born on 28 February 1895, and 18 March 1907, respectively, and who lived at Niemuno Gatve 26, Kaunas, Lithuania, prior to the Second World War. The Claimant further stated that Efim was a chemical engineer whose family owned a leather factory in Latvia, and that he also worked at Ch. Zivo, a tobacco factory owned by Chaja's family. He stated that the Account Owners' businesses were confiscated by the Soviets in 1940, and that the Account Owners themselves were imprisoned by the Nazis in the Kaunas Ghetto in 1941 before being deported and murdered in 1944.

The Claimant stated that Efim and Chaja Griliches had two children, [REDACTED] (born 1930) and [REDACTED] (born 1933), and that he is one of four grandchildren. The Claimant submitted power of attorney forms confirming that he is representing the other three grandchildren in this proceeding.

Information Available in the Bank Records

According to the bank documents, the Account Owners were Efim and Mrs. Chaja Griliches, who resided at Nemunas 26, Kaunas, Lithuania, when they opened the Account in Zurich on 8 December 1933. The opening contract contained signature samples for both Account Owners. According to the bank documents, the Account consisted of a custody account ("securities depot"). An internal note by the bank, dated 1944, reflected that the Account was frozen as required under Swiss law, and a subsequent note reflected that the Account was closed in 1952. The bank documents do not contain the value of the Account, and they do not show to whom (if anyone) the Account was paid.

The Tribunal's Analysis

Identification of the Account Owners

The Claimant has plausibly identified the Account Owners. The Claimant identified the two Account Owners published separately on the 5 February 2001 list of account owners as husband and wife, which is consistent with information in the bank records. He further provided a street address for his grandparents which matches the unpublished street address of the Account Owners which appears in the bank records.

Status of the Account Owners as Victims of Nazi Persecution

The Claimant provided plausible evidence that the Account Owners were Victims of Nazi Persecution. The Claimant stated, and submitted detailed stories, that his grandparents, who were Jewish, were imprisoned in the Kaunas Ghetto by the Nazis and were later deported and murdered.

The Claimant's Relationship to the Account Owners

The Claimant has plausibly demonstrated that the Account Owners were his grandparents. The Claimant provided family documents, including his own and his mother's birth certificates, indicating that the Account Owners were his grandparents. He submitted family photos, stories, and a detailed family tree identifying his sister and two cousins as the Account Owners' only other grandchildren. According to Article 29 of the Rules, each would be entitled to one fourth of their grandparents' estates.

The Issue of Who Received the Proceeds

Since the Claimant would not be entitled to an award of the account proceeds if they were in fact paid to the Account Owners or their heirs, the Tribunal must consider the question of what happened to the funds in this case.

The historical evidence developed by the Independent Committee of Eminent Persons demonstrates that the funds of Nazi victims in Swiss banks were disposed of in various ways. In some cases, the account owners and/or their families may have withdrawn and received the funds. In other cases, account owners who were subject to Nazi coercion

sent to their banks requests for closure and transfer to banks designated by the Nazi authorities, and the funds fell into Nazi hands. For other accounts, no transfers occurred, but the amount in the account was consumed by regular and special bank fees and charges resulting ultimately in closure without any payment to the account owners; and in still others, particularly after a period of inactivity or dormancy, the proceeds were paid to bank profits. Thus if the funds were not in fact paid to an account owner or his family, as is apparently the case here for two of the accounts described below, there is a substantial likelihood that they went to the Nazis or the Swiss bank.

In this case, the bank noted in its records that the Account had been frozen by 1944 in accordance with Swiss law. This is consistent with the historical fact that the Swiss government ordered all banks to freeze assets belonging to Lithuanian residents in August 1940. Furthermore, the bank records show that the Account was closed in 1952, eight years after the death of both Account Owners. This information makes it implausible that the Account Owners were free to receive the proceeds before their deaths, and it is, of course, impossible that they closed the account themselves after their deaths.

Although the Tribunal cannot determine with certainty who received the proceeds of the Account, the Tribunal concludes that it is not possible that the Account Owners received the proceeds. It would appear instead that the Account was closed by an internal bank procedure after being frozen according to Swiss law.

Basis for the Award

The Tribunal has determined that an Award may be made in favor of the Claimant for the following reasons: the Claim is admissible as the claimed Account belonged to Victims of Nazi Persecution, and the Claimant has provided information establishing that his grandparents were the Account Owners (a relationship that justifies making an award).

Amount of the Award

The bank records do not indicate a balance for the Account. When the value of an account is unknown, the average value of the same or similar type of account in 1945, as determined based on the results of the investigation of Swiss banks by the Independent Committee of Eminent Persons and as required by Article 35 of the Rules, is used to calculate the present value of the account being awarded. The bank records indicate that the Account Owner had a custody account ("securities depot") with the bank. In 1945 the average value of custody accounts was 13,000.00 Swiss Francs. The present value of the Account is obtained by multiplying the 1945 value by a factor of 11.5, in accordance with Article 37(1) of the Rules, giving a total award amount of 149,500.00 Swiss Francs.

The Claimant should note that according to Article 37(1) of the Rules Governing the Claims Resolution Process, in cases when the amount in the Account is not known, the Claimant shall receive an initial payment of 35% of the total award amount. After all claims are processed, subject to approval by the Court, the Claimant may receive a subsequent payment of up to the remaining 65% of the total award amount. 35% of the total award amount in this case is 52,325.00 Swiss Francs.

The Claimant is representing his sister and two cousins in these proceedings, each of whom would be entitled to receive one-quarter of any payment to the Claimant.

Scope of the Award

The Claimant should be aware that, pursuant to Article 25 of the Rules, the Tribunal will carry out further research on his claim to determine whether there are additional Swiss bank accounts to which he might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).


Certification of the Award

At this point in the Claims Resolution Process, the Tribunal has identified a number of cases in which a particular claimant has made out a strong case for entitlement to an Award, but at this stage it is not possible for the Tribunal to have clear assurance that no additional claimants to the same accounts will be forthcoming. Moreover, the new process of analyzing the Initial Questionnaires to determine those that can be treated as claim forms adds another element of uncertainty about the possibility of future complementary or competing claims.

The Special Masters appointed by the Court to supervise the Claims Resolution Process for Deposited Assets Claims have stressed the importance of moving ahead quickly to begin to make awards to Holocaust victim claimants or their heirs. They have therefore instructed the Tribunal that in particular cases where the Tribunal is satisfied that the currently identified claimant has a strong claim and that the risk of future competing claims is low, the Tribunal should prepare an award to that claimant and submit it to the Court for approval. This is such a case.

In this case, the Tribunal is of the opinion that the Claimant has presented a strong claim to the Account, thus substantially reducing the likelihood of competing claims. On this basis, and taking into account the instructions of the Special Masters, the Tribunal recommends approval of the present Award by the Court for payment by the Special Masters in accordance with Article 37(3).

Nov. 5, 2001
Date


Roberts B. Owen
Senior Claims Judge